

BEFORE THE
ILLINOIS COMMERCE COMMISSION

ILLINOIS BELL TELEPHONE COMPANY) DOCKET NO.
(Ameritech Illinois) and) 02-0651
ROYAL PHONE COMPANY, LLC)
)
Joint Petition for Approval of)
Interconnection Agreement dated)
September 17, 2002, pursuant to 47)
U.S.C. Section 252.)

Springfield, Illinois
October 30, 2002

Met, pursuant to notice, at 2:00 P.M.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES:

MR. JAMES HUTTENHOWER
MS. NANCY HERTEL
225 West Randolph
HQ 25D
Chicago, Illinois 60606

(Appearing on behalf of Ameritech
Illinois via teleconference)

MR. DENNIS FRIEDMAN
Mayer, Brown, Rowe & Maw
190 South La Salle Street
Chicago, Illinois 60603

(Appearing on behalf of Ameritech
Illinois via teleconference)

SULLIVAN REPORTING COMPANY, by
Cheryl A. Davis, Reporter, #084-001662

APPEARANCES:

(Cont'd)

MR. JAMES WEGING
MR. MATTHEW L. HARVEY
MR. SEAN R. BRADY
160 North La Salle Street
Suite C-800
Chicago, Illinois 60601

(Appearing on behalf of the Staff of the
Illinois Commerce Commission via
teleconference)

MR. TAE KIM
MR. STEVE HWANG
750 West Lake Cook Road
Suite 110
Buffalo Grove, Illinois 60089

(Appearing on behalf of Royal Phone
Company, LLC via teleconference)

I N D E XWITNESSESDIRECTCROSSREDIRECTRECROSS

(None)

EXHIBITSMARKEDADMITTED

(None)

PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 02-0651. This docket concerns a joint petition filed by Illinois Bell Telephone Company and Royal Phone Company, LLC. The Petitioners seek approval of a negotiated -- or rather they seek approval of adoption of an interconnection agreement.

May I have the appearances for the record, please.

MR. HUTTENHOWER: James Huttenhower, H-U-T-T-E-N-H-O-W-E-R, and Nancy Hertel, H-E-R-T-E-L, appearing on behalf of Illinois Bell Telephone, 225 West Randolph Street, Suite 25D, Chicago, 60606.

MR. FRIEDMAN: Also on behalf of Illinois Bell, Dennis Friedman, Mayer, Brown, Rowe and Maw, 190 South La Salle Street, Chicago, 60603.

MR. HARVEY: Appearing for the Staff of the Illinois Commerce Commission, Matthew L. Harvey, James G. Weging and Sean R. Brady, 160 North

1 La Salle Street, Suite C-800, Chicago, Illinois
2 60601.

3 JUDGE ALBERS: And from Royal?

4 MR. HARVEY: For the Court Reporter,
5 Mr. Weging's surname is spelled W-E-G-I-N-G.

6 JUDGE ALBERS: Thank you.

7 And from Royal Phone Company.

8 MR. KIM: We have Tae Kim, T-A-E, last name is
9 Kim, K-I-M, at 750 West (unintelligible) Road, Suite
10 110, Buffalo Grove, Illinois 60089.

11 JUDGE ALBERS: Mr. Kim, could you repeat your
12 address, please?

13 MR. KIM: It's 750 West Lake Cook Road.

14 JUDGE ALBERS: West Lake Cook Road?

15 MR. KIM: Uh-huh.

16 JUDGE ALBERS: Okay.

17 MR. KIM: Suite 110.

18 JUDGE ALBERS: I'm sorry. And also from Royal
19 there is?

20 MR. HWANG: Steve Hwang, H-W-A-N-G.

21 JUDGE ALBERS: And are there any others wishing
22 to enter an appearance in Docket 02-0651? Let the

1 record show no response.

2 The last time we met Staff had indicated
3 they had some data requests they would like answers
4 to that would allow them to determine whether or not
5 they were going to have any contested matters in
6 this docket. I take it from the fact that I
7 received a motion to compel this morning that there
8 have been some concerns or some issues with regard
9 to discovery.

10 Before I get into that though, are there
11 any preliminary matters this afternoon? Okay.
12 Hearing none, I'll go straight to that motion to
13 compel.

14 Did Ameritech get a copy of this?

15 MR. HUTTENHOWER: Yes, we did.

16 JUDGE ALBERS: Okay. Before I get into any
17 schedule for that, I had one question for Staff.

18 I reviewed the motion and the schedules
19 attached thereto. The Staff Data Request Number 4.

20 MR. HARVEY: Yes.

21 JUDGE ALBERS: I was wondering just for myself
22 what more was it that Staff was asking for with

1 regard to this question?

2 MR. WEGING: Of course, needless to say, I'm
3 having a heck of a time finding my own question.

4 (Brief pause in the proceedings.)

5 I haven't even looked at the question
6 closely. It really is the 4(b) question. It has to
7 do with the aggregate cap that is provided for in
8 this appendix and what would happen if the
9 measurements -- if the damages exceeded the cap, how
10 are they distributed among the various CLECs.

11 Frankly, looking at it, we withdrew our
12 request on question 5, and that also seemed to also
13 answer 4(a), but it's really a 4(b) question about
14 what happens if the damages were to exceed the cap?
15 How is that -- is it prorated or how is it handled?

16 JUDGE ALBERS: Okay.

17 MR. FRIEDMAN: This is Dennis Friedman with a
18 question. Jim, isn't that the same as 3?

19 MR. HARVEY: Is that for Jim Weging or Jim
20 Huttenhower?

21 MR. FRIEDMAN: I meant it for Jim Weging. I'm
22 suggesting, and I may be missing something, isn't

1 part (b) of 4 then, in light of the comment you just
2 made, isn't that the same as request 3?

3 MR. WEGING: I believe they're similar. You
4 know, we had alternative versions on some of this,
5 and I'm getting very (unintelligible). It's
6 certainly a related question to the
7 (unintelligible.)

8 JUDGE ALBERS: Related question to what? We
9 lost you there.

10 MR. FRIEDMAN: I'm suggesting that 4(b), which
11 Jim Weging said is the part of Request 4 that Staff
12 is actually interested in at this point, is really
13 the same question as Request 3, which we really had
14 not focused on before.

15 MR. WEGING: One of the reasons why we didn't
16 go further on 5 was that the response that if that
17 service to a particular CLEC exceeded the
18 performance measurements, that there would be no
19 damages paid to them kind of answers that kind of
20 question.

21 Well, I mean the question is still the
22 same. How does the cap work vis-a-vis damages if

1 the amount of damage exceeds them?

2 JUDGE ALBERS: Well, okay. I guess there's no
3 easy answer then to my question.

4 In any event, I would like to set a
5 schedule for responses and replies to this, keeping
6 in mind that we've eaten up days in our 90-day
7 schedule. I'd like to direct Ameritech to file a
8 response to the motion to compel by tomorrow by
9 5:00.

10 MS. HERTEL: Sir, may I ask one -- this is
11 Nancy Hertel. May I ask one question?

12 We had said -- we only got these this
13 morning. We had had a hearing in front of Judge
14 Riley yesterday, and he gave us on these same data
15 requests until Thursday, which is tomorrow. I'm
16 sorry; which is tomorrow, and then that he was going
17 to have a status hearing on Friday, at which point
18 if we wanted to we would have a short argument and
19 he'd try and make a ruling on it. Would it be
20 appropriate to have the same schedule?

21 JUDGE ALBERS: Well, except for the fact that
22 I'm not sure about my availability on Friday. I was

1 contemplating an Ameritech response tomorrow, a
2 Staff reply on Friday, and then I'd send out a
3 ruling on Monday.

4 MR. HARVEY: I think we can do that, Judge.
5 That would be fine with Staff, Judge.

6 JUDGE ALBERS: Okay. Is that all right? Does
7 Ameritech have any objection to that?

8 MS. HERTEL: No.

9 JUDGE ALBERS: Okay.

10 I don't think there's anything else to take
11 care of today. It seems to me that given this
12 discovery dispute, that this needs to be taken care
13 of before we can go any further. Does anyone have
14 anything else they want to raise? Should I take the
15 silence as a no?

16 MR. WEGING: This is Jim Weling. It's my
17 understanding that this case, in fact, was filed on
18 the same day as Judge Riley's case, and he has made
19 the comment if not the ruling that he needs to have
20 his case done by November 15th in order to get it up
21 to the Commission's December session, and I presume
22 that this case would have to follow the same

1 parallel tracking as it were.

2 Assuming that we are at loggerheads on
3 evidence and/or the legal position of this
4 agreement, I mean we are talking then about a
5 hearing, briefs, proposed order, exceptions, reply
6 exceptions, and I know that sometimes the scheduling
7 is different in Springfield than Chicago because of
8 the way the sessions fall, but I'm just -- I'm not
9 actually objecting to anything said, but I just kind
10 of want to make sure that we don't fall behind on
11 this case either.

12 JUDGE ALBERS: Well, this case was filed on
13 September 27th, correct?

14 MR. HUTTENHOWER: Yes.

15 JUDGE ALBERS: As I calculate the deadline,
16 it's December 26th. The last Commission meeting
17 before then is December 18th, and what day did you
18 say that Judge Riley needed to have his taken care
19 of?

20 MR. WEGING: We needed to have it all wrapped
21 up, including Staff's proposed order and all that,
22 by the 15th.

1 JUDGE ALBERS: Of?

2 MR. WEGING: It has to do -- I know this has to
3 do with internal scheduling about getting things on
4 the Commission docket.

5 JUDGE ALBERS: But he said he needed it wrapped
6 by November 15th?

7 MR. WEGING: Yes. Now he did want to give the
8 Commission a chance to -- so that they would have
9 the December -- he wanted to try to get it to the
10 December 3rd and 4th, but failing that the 10th and
11 11th, and then still give the Commissioners some
12 time to meet. I think what it is, he was shooting
13 for the 3rd and 4th which are Chicago sessions.

14 MS. HERTEL: This is Nancy Hertel again. Judge
15 Zaban has one that is actually on the fastest track
16 I think of all of these, and what he has done in his
17 docket was he denied the motion for discovery and he
18 has set it for hearing for next Wednesday.

19 JUDGE ALBERS: Well, without discussing the
20 matter with Judges Riley or Zaban, initially I'm not
21 clear as to why this would need to be wrapped up by
22 November 15th. In theory, I could take proposed

1 exceptions, a proposed order to the Commission as
2 late as December 6th and put that up for the
3 December 18th meeting. I realize Judge Zaban's
4 schedule ends sooner than mine. I think his
5 deadline is December 6th or thereabouts. Maybe it's
6 December 11th, now that I think about it, the point
7 being I could see why he would certainly need to
8 have things wrapped up sooner.

9 We could have another status hearing on
10 November 4th.

11 MR. WEGING: Because it was a problem in the
12 other case, but, like I say, Chicago and Springfield
13 track slightly differently on these matters, so. I
14 wasn't trying to throw a monkey wrench into the
15 schedule that you were setting. Just wanted to make
16 sure we didn't miss something.

17 JUDGE ALBERS: Well, I don't think we're in
18 trouble yet. I think if we set a status hearing on
19 November 4th, I can rule on the motion to compel.
20 There would probably be -- you know, assuming there
21 would be -- if there was any granting of the motion,
22 there would be some very quick dates to get the

1 information provided.

2 Why don't we go off the record for a minute
3 and discuss the procedure the parties envision.

4 (Whereupon at this point in the
5 proceedings an off-the-record discussion
6 transpired.)

7 JUDGE ALBERS: All right. It would seem that
8 following the response of Ameritech to Staff's
9 motion by close of business tomorrow and a Staff
10 reply by close of business on Friday, following that
11 I'll take the pleadings into account and issue a
12 ruling at a 1:30 status hearing on November 4th, the
13 following Monday. At that time I would also set a
14 schedule for the remainder of this proceeding,
15 anticipating that there would more than likely be an
16 evidentiary hearing on the week of November 11th.

17 Are there any further questions or
18 comments?

19 MR. HARVEY: We have nothing from Staff, Your
20 Honor.

21 JUDGE ALBERS: Okay. If there's nothing
22 further from anyone, then I'll continue this to

1 November 4th at 1:30 p.m..

2 (Whereupon the case was continued to
3 November 4, 2002, at 1:30 p.m. in
4 Springfield, Illinois.)

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